

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Luis A. Garza v. United States of AmericaNo. CA B-02-154**Motion and Declaration for Leave to Proceed in Forma Pauperis**

INSTRUCTIONS: If you do not pay the fee, file this completed form with your petition for review or notice of appeal within 14 days of the date of docketing. Complete all questions in this application and then sign it. Do not leave any blanks; if the answer to a question is "0", "none", or "not applicable" (N/A), write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case docket number, and the question number. Failure to fully answer the questions may result in a denial of the motion.

Petitioner/Appellant hereby moves for leave to proceed in forma pauperis, pursuant to 28 U.S.C. § 1915, in this case and submits the following declaration in support thereof:

I, Luis Alejandro Garza, am the Petitioner/Appellant in the above-entitled case. In support of my motion to proceed on appeal without being required to pay the docketing fee, I state that I am unable to pay the fee because of my poverty; that I believe that I am entitled to redress; and that the issues which I desire to present on appeal are the following:

That the trial court improperly granted the United States motion to Dismiss for Lack of Prosecution.

I further declare that the responses which I have made to the questions and instructions below relating to my ability to pay the docketing fee are true.

1. For both you and your spouse, estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>25.00</u>	\$ <u>NONE</u>	\$ <u>25.00</u>	\$ <u>NONE</u>
Self-employment	\$ <u>NXA</u>	\$ <u>NXA</u>	\$ <u>NXA</u>	\$ <u>NXA</u>
Income from real property (such as rental income)	\$ <u>NXA</u>	\$ <u>NXA</u>	\$ <u>NXA</u>	\$ <u>NXA</u>

	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Interest and dividends	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Gifts	\$ <u>218.00</u>	\$ <u>NONE</u>	\$ <u>150.00</u>	\$ <u>NONE</u>
Alimony	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Child support	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Public assistance (such as welfare)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Other (specify) _____	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>243.00</u>	\$ <u>NONE</u>	\$ <u>200.00</u>	\$ <u>NONE</u>

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is pay before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
USP Laundry Dept.	Pollock, Louisiana	Sept. 28, 2003 - 2004	\$25.00
FCI Three Rivers	Three Rivers, Texas	Jan. 2002 - June 2002	\$50.00

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is pay before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

4. Are you presently incarcerated? ☒ Yes ☐ No If so, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. How much cash do you and your spouse have? \$ NONE

Below, state any money you or your spouse have in bank accounts or in any other financial institution. State the average monthly balance.

Financial institution	Type of account	Amount you have	Amount your spouse has
<u>NONE</u>	<u>NONE</u>	\$ <u>NONE</u>	\$ <u>NONE</u>
<u>NONE</u>	<u>NONE</u>	\$ <u>NONE</u>	\$ <u>NONE</u>

6. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home (Value)	Other real estate (Value)	Other assets (Value)
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>

Other assets (Value)	Motor vehicle #1 Make, model & year: Value:	Motor vehicle #2 Make, model & year: Value:
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>

7. State every person, business, or organization owing you or your spouse money, and the amount owed:

Person, business or organization owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>

8. State the persons who rely on you or your spouse for support:

Name	Relationship	Age
<u>Luis Alejandro Garza Jr.</u>	<u>SON</u>	<u>5 yrs. 4 months</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>

9. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>NONE</u>	\$ <u>N/A</u>
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>65.00</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>NONE</u>	\$ <u>N/A</u>
Food	\$ <u>150.00</u>	\$ <u>N/A</u>
Clothing	\$ <u>28.00</u>	\$ <u>N/A</u>
Laundry and dry cleaning	\$ <u>NONE</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>NONE</u>	\$ <u>N/A</u>
Transportation (not including motor vehicle payments)	\$ <u>NONE</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>NONE</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>NONE</u>	\$ <u>N/A</u>
Life	\$ <u>NONE</u>	\$ <u>N/A</u>
Health	\$ <u>NONE</u>	\$ <u>N/A</u>
Motor vehicle	\$ <u>NONE</u>	\$ <u>N/A</u>
Other: _____	\$ <u>NONE</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in mortgage payments) (specify): _____	\$ <u>NONE</u>	\$ <u>N/A</u>

	You	Your spouse
Installment payments		
Motor vehicle	\$ <u>NONE</u>	\$ <u>N/A</u>
Credit card (name): _____	\$ <u>NONE</u>	\$ <u>N/A</u>
Department store (name): _____	\$ <u>NONE</u>	\$ <u>N/A</u>
Other: _____	\$ <u>NONE</u>	\$ <u>N/A</u>
Alimony, maintenance, and support paid to others	\$ <u>NONE</u>	\$ <u>N/A</u>
Regular expenses for operation of business, profession or farm (attach detailed statement)	\$ <u>NONE</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>NONE</u>	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>243.00</u>	\$ <u>N/A</u>

10. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

 Yes ☒ No If yes, describe on an attached sheet.

11. Have you paid, or will you be paying, an attorney any money for services in connection with this case, including the completion of this form?

 Yes ☒ No If yes, how much? \$ 25% of whatever is relief to the plaintiff.

If yes, state the attorney's name, address, and telephone number:

Barry R. Benton, 284 Ebony Avenue,
Brownsville, TX 78520-8014

12. Have you paid, or will you be paying, anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

 Yes ☒ No If yes, how much? \$

If yes, state the person's name, address, and telephone number:

13. Provide any other information that will help explain why you cannot pay the docketing fees for your appeal or petition for review.

I find myself incarcerated, and I only earn
\$25 monthly, the other money I get are gifts that
my Mom or my Dad, or Cousins send me whenever they
can. Therefore, I PRAY that this Foramt Paper be
Granted.

14. Have you ever filed a motion for leave to proceed in forma pauperis in any other case in this court? ___ Yes ☒ No If yes, state the name and docket number of that case.

15. State the address of your legal residence:

USP Pollock, P.O. Box 2099,
Pollock, Louisiana 71467

Your daytime phone number: (—) N/A

Your social security number: 452-71-7078

Your age: 30 years Your years of schooling: 9th grade

You must sign and date the declaration under penalty of perjury.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury, under the laws of the United States, that my answer on this form are true and correct.

12-01-04
Date

Luis A. Araya
Petitioner's/Appellant's signature

ORDER OF THE COURT

The motion to proceed in forma pauperis is DENIED. The docketing fee must be paid within 14 days.

The motion to proceed in forma pauperis is GRANTED. Let the applicant proceed without prepayment of the docketing fee.

Circuit Judge

Date

Circuit Judge or Clerk

Date